

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

**FELIX DELGADO, CARLOS  
DOMINGUEZ, LUIS MAURISECA, KAE  
HEUNG PARK, LONG FAN JIN, JORGE  
PENAPIEL, MANUEL TENEZACA,  
PASCACIO CALLEJAS, SANTOZ  
MENDOZA, and JOAQUIN MACARENO,**

**Plaintiffs,**

**-against-**

**KIKO CONSTRUCTION INC., REX KIM,  
and KWANG YONG BYUN,**

**Defendants.**

**08CV1984 (DAB) (MDF)**

**ECF Case**

**REQUEST TO ENTER DEFAULT**

**TO: J. MICHAEL McMAHON, CLERK  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
VIA ECF**

Plaintiffs Felix Delgado, Carlos Dominguez, Luis Mauriseca, Kae Heung Park, Long Fan Jin, Jorge Penapiel, Manuel Tenezaca, Pascacio Callejas, Santoz Mendoza, and Joaquin Macareno, respectfully request the entry of default of the Defendants KIKO CONSTRUCTION INC., pursuant to Rule 55(a) of the Federal Rules of Civil Procedure for failure to plead or otherwise defend the above-captioned matter as fully appears from the Court file herein and from the attached Certification of Dillon Kim.

Dated: New York, New York  
April 23, 2008

**HOGAN & HARTSON LLP**

*/s/ Dillon Kim*

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Arlene L. Chow (AC 4533)  
Dillon Kim (DK 4121)  
875 Third Avenue  
New York, NY 10022  
(212) 918-3000

Tushar J. Sheth (TS 5672)  
**ASIAN AMERICAN LEGAL DEFENSE  
AND EDUCATION FUND**  
99 Hudson Street, 12<sup>th</sup> Floor  
New York, New York 10013  
(212) 966-5932

Steven Choi (SC 1906)  
**YKASEC – EMPOWERING THE KOREAN  
AMERICAN COMMUNITY**  
136-19 41st Ave, 3rd Floor  
Flushing, NY 11354  
(718) 460-5600

*Attorneys for Plaintiffs Felix Delgado,  
Carlos Dominguez, Luis Mauriseca, Kae  
Heung Park, Long Fan Jin, Jorge Penapiel,  
Manuel Tenezaca, Pascacio Callejas, Santoz  
Mendoza, and Joaquin Macareno*

**UNITED STATES DISTRICT COURT  
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**FELIX DELGADO, CARLOS  
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**-against-**

**KIKO CONSTRUCTION INC., REX KIM,  
and KWANG YONG BYUN,**

**Defendants.**

08CV1984 (DAB) (MDF)

ECF Case

**CERTIFICATION OF DILLON  
KIM IN SUPPORT OF REQUEST  
TO ENTER DEFAULT**

I, DILLON KIM, of full age and under penalty of perjury, certify as follows:

1. I am an attorney at law duly admitted to practice in the State of New York and the United States District Court for the Southern District of New York and the Eastern District of New York.

2. I am an attorney with the law firm of Hogan & Hartson LLP, counsel for Plaintiffs Felix Delgado, Carlos Dominguez, Luis Mauriseca, Kae Heung Park, Long Fan Jin, Jorge Penapiel, Manuel Tenezaca, Pascacio Callejas, Santoz Mendoza, and Joaquin Macareno, in this matter and am familiar with the facts set forth in this Certification.

3. This Certification is respectfully submitted in support of the entry of a Notation of a Default in Appearance against Defendant KIKO CONSTRUCTION INC.

4. This action was commenced on February 28, 2008 by the filing of the Complaint.

5. On the same day, a Summons was issued against the Defendant.

6. The Summons and Complaint were served on Defendant KIKO CONSTRUCTION INC. on February 29, 2008 by service upon the New York Secretary of State. A true copy of the Affidavit of Service is annexed here as Exhibit "A".

7. The time for Defendant KIKO CONSTRUCTION INC. to appear or otherwise respond to the complaint of the Plaintiffs has expired and Defendant is now in default of appearance pursuant to Rule 55(a) of the Federal Rules of Civil Procedure.

8. As a result of the foregoing, Plaintiffs respectfully request that the Clerk of the Court enter a Notation of Default on the record in the form annexed here as Exhibit "B".

Dated: New York, New York  
April 23, 2008

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/s/ Dillon Kim  
Dillon Kim (DK 4121)

# **EXHIBIT “A”**

AO 440 (Rev. 8/01) Summons in a Civil Action

UNITED STATES DISTRICT COURT

Southern

District of

New York

FELIX DELGADO, CARLOS DOMINGUEZ, LUIS  
MAURISECA, KAE HEUNG PARK, et.al.

SUMMONS IN A CIVIL ACTION

v.

KIKO CONSTRUCTION, INC., REX KIM,  
KWANG YONG BYUN

CASE NUMBER:

08 CV 1984

JUDGE BATTS

TO: (Name and address of Defendant)

Kiko Construction, Inc.  
41 Gleane Street,  
Apt. E-11  
Elmhurst, NY 11373

Rex Kim  
14431 41st Ave.  
Apt. 4 A  
Flushing, NY 11355

Kwang Yong Byun  
14330 38th Ave.  
Apt. 5 N  
Flushing, NY 11354

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

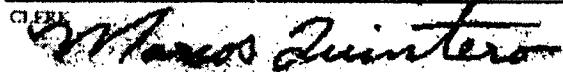
Arlene L. Chow (AC 4533)  
Dillon Kim (DK 4121)  
Hogan & Hartson LLP  
875 Third Avenue  
New York, New York 10022  
(212) 918-3000

Tushar J. Sheth (TS 5672)  
Asian American Legal Defense and  
Education Fund  
99 Hudson Street, 12th Floor  
New York, New York 10013  
(212) 966-5932

Steven Choi (SC 1906)  
YKASEC - Empowering  
the Korean American  
Community  
136-19 41st Avenue,  
3rd Floor  
Flushing, New York 11354  
(718) 460-5600

an answer to the complaint which is served on you with this summons, within 20 days after service  
of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you  
for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the  
Clerk of this Court within a reasonable period of time after service.

J. MICHAEL McMAHON



(By) DEPUTY CLERK

FEB 28 2008

DATE

AO 440 (Rev. 8/01) Summons in a Civil Action

<b>RETURN OF SERVICE</b>		
Service of the Summons and complaint was made by me <sup>(1)</sup>	DATE	
NAME OF SERVER ( <i>PRINT</i> )	TITLE	
<i>Check one box below to indicate appropriate method of service</i>		
<input type="checkbox"/> Served personally upon the defendant. Place where served:  <input type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. Name of person with whom the summons and complaint were left: <input type="checkbox"/> Returned unexecuted:  <input type="checkbox"/> Other (specify):		
<b>STATEMENT OF SERVICE FEES</b>		
TRAVEL	SERVICES	TOTAL \$0.00
<b>DECLARATION OF SERVER</b>		
I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.		
Executed on _____	Date _____	<i>Signature of Server</i>
<i>Address of Server</i>		

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

EPS Judicial Process Service, Inc.  
29-27 41<sup>st</sup> Avenue, Suite 812  
Long Island City, NY 11101  
Telephone: 718-472-2900  
Facsimile: 718-472-2909

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
FELIX DELGADO, CARLOS DOMINGUEZ, LUIS  
MAURISECA, KAE HEUNG PARK, et al.,

Index Number: 08 CV 1984  
AFFIDAVIT OF SERVICE

Plaintiff (s),

-against-

KIKO CONSTRUCTION, INC., REX KIM, KWANG  
YONG BYUN,

Defendant (s).

-----X  
STATE OF NEW YORK )

:S.S:

COUNTY OF QUEENS )

JEFFERSON TIRADO, being duly sworn, deposes and says:

I am not a party to this action, am over the age of eighteen years, and  
reside in the State of New York.

On the 29<sup>th</sup> day of February, 2008, at approximately 2:55 p.m. at 41-96 Gleane  
Street, Apartment E-11, Elmhurst, New York, I served true copies of the SUMMONS IN  
A CIVIL CASE, COMPLAINT, INDIVIDUAL PRACTICES OF JUDGE DEBORAH  
A. BATTs and INDIVIDUAL PRACTICES OF MAGISTRATE JUDGE MARK D.  
FOX, in the above-entitled action, upon KIKO CONSTRUCTION, INC., defendant  
herein named, by personally delivering to and leaving thereat, true copies of the above  
mentioned documents with an employee of Kiko Construction, Inc. At time of service,  
the employee refused to identify himself by name; however is a person authorized to  
accept service of process for Kiko Construction, Inc.

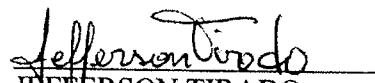
The employee can best be described as a Hispanic male, approximately 25-30 years of age, 5'9" tall, 185 lbs, with dark hair and dark eyes.

On the 29<sup>th</sup> day of February, 2008, I completed the service of the SUMMONS IN A CIVIL CASE, COMPLAINT, INDIVIDUAL PRACTICES OF JUDGE DEBORAH A. BATTS and INDIVIDUAL PRACTICES OF MAGISTRATE JUDGE MARK D. FOX upon KIKO CONSTRUCTION, INC., defendant herein named, pursuant to CPLR 308, via First Class Mail. Such service was made by personally enclosing true and correct copies of the aforementioned documents in a properly addressed, postage paid, securely fastened wrapper bearing the legend "personal and confidential", and not indicating by return address or otherwise that such communication was from an attorney or concerned an action pending against them, and then depositing it into an official depository under the exclusive care and custody of the United States Postal Service within the State of New York to:

Kiko Construction Inc.  
41-96 Gleane Street  
Apartment E-11  
Elmhurst, New York 11373

Sworn to before me this  
29<sup>th</sup> day of February, 2008

NOTARY PUBLIC

  
JEFFERSON TIRADO  
Organization License No. 1155020

CLENDY J. CALDERON  
Notary Public, State of New York  
No. 01CA6115564  
Qualified in Queens County  
Commission Expires September 7, 2008

United States District Court  
Southern District of New York

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Felix Delgado, Carlos Dominguez, Luis  
Mauriseca, Kae Heung Park, et al.

Plaintiffs,

-against-

Kiko Construction, Inc., Rex Kim,  
Kwang Yong Byun,

Defendants.

**AFFIDAVIT OF SERVICE**  
Case # 08 CV 1984

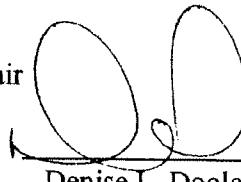
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COUNTY OF ALBANY SS:  
STATE OF NEW YORK

Denise L. Dooley being duly sworn says: Deponent is over the age of eighteen years and is a resident of New York State, that: Deponent served the following specific papers in the above entitled action: Summons in a Civil Action, Complaint and Individual Practices of Judge Deborah A. Batts and Individual Practices of Magistrate Judge Mark D. Fox, pursuant to Section 306 of the Business Corporation Law. The corporation which was served was: **KIKO CONSTRUCTION INC.**

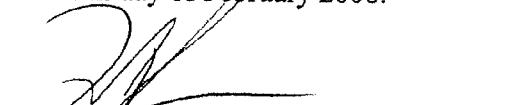
That on the 29th day of February 2008 at approx. 9:30 a.m., at the office of Department of State of New York, in the City of Albany, two (2) copies of the aforesaid papers were served by personally delivering to and leaving with Donna Christie known to me to be in the Corporation Division of the Department of State and empowered to receive such service. That at the time of making such service, deponent paid to the Secretary of State the fee prescribed by Law in the amount of \$40.00.

Description of Donna Christie - Authorized Person  
White female, approx. 37 yrs., 5'3", 140 lbs., blonde hair



Denise L. Dooley

Sworn to before me  
this 29th day of February 2008.



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FRANK J. PANUCCI  
Notary Public, State of New York  
Qualified in Albany County  
No. 4721156  
Commission Expires July 31, 2010

State of New York - Department of State  
Receipt for Service

Receipt #: 200802290099  
Date of Service: 02/29/2008  
Service Company: 12 EMPIRE CORPORATE & INFORMATION SERVICES,

Service was directed to be made pursuant to: SECTION 306 OF THE BUSINESS  
CORPORATION LAW

Party Served: KIKO CONSTRUCTION INC.

Plaintiff/Petitioner:  
DELGADO, FELIX

Service of Process Address:  
KIKO CONSTRUCTION INC.  
41-96 GLEANE ST APT E-11  
ELMHURST, NY 11373

Secretary of State  
By DONNA CHRISTIE

# **EXHIBIT “B”**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

**FELIX DELGADO, CARLOS  
DOMINGUEZ, LUIS MAURISECA, KAE  
HEUNG PARK, LONG FAN JIN, JORGE  
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and KWANG YONG BYUN,**

**Defendants.**

**08CV1984 (DAB) (MDF)**

**ECF Case**

**NOTATION OF DEFAULT**

I, **J. MICHAEL McMAHON**, Clerk of the Court of the United States District Court for the Southern District of New York, do hereby certify that the Defendant, **KIKO CONSTRUCTION INC.**, has not filed an answer or otherwise moved with respect to the Complaint herein. The default of the Defendant, **KIKO CONSTRUCTION INC.**, is hereby pursuant to Rule 55(a) of the Federal Rules of Civil Procedure.

Dated: New York, New York  
April 23, 2008

**J. MICHAEL McMAHON**  
Clerk of the Court

By:   
Deputy Clerk